

REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action mailed on January 14, 2004.

Prior to this Amendment, claims 1-40 were pending and subject to examination.

In this Amendment, a duplicate claim 23 is canceled. No claims are amended and no claims are added. Accordingly, claims 1-40 are pending and subject to examination.

At page 6 of the Office Action, the Examiner indicates that claims 16, 20, and 36 would be allowable if rewritten into independent form. The Examiner is thanked for this indication of allowable subject matter.

In the Office Action, claims 1-40 are provisionally rejected under the doctrine of obviousness double patenting.

Applicants note this rejection, and request that this rejection be held in abeyance until the claims are otherwise allowable.

Claims 1-15, 17-19, 21-35, and 37-40 are rejected as anticipated by Hillenkamp (U.S. Patent No. 6,558,902). This rejection is traversed.

Hillenkamp does not anticipate the claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Here, Hillenkamp fails to teach or suggest a method including, *inter alia*, "entering into a digital computer a data set obtained from mass spectra" as recited in independent claim 1. Hillenkamp also fails to teach or suggest a computer readable medium comprising, *inter alia*, "code for entering data derived from mass spectra from a plurality of samples" as recited in independent claim 35. Hillenkamp mentions an infrared matrix-assisted laser desorption/ionization mass spectrometric analysis of macromolecules. Hillenkamp does not teach or suggest that his data is to be analyzed with a digital computer. In fact, Hillenkamp fails to mention the word "computer" at all, let alone the particular computer implemented method of claim 1 and the computer readable medium of claim 35. Since Hillenkamp fails to teach each and every limitation of independent claims 1 and 35, Hillenkamp

Appl. No. 10/084,587
Amdt. dated July 13, 2004
Reply to Office Action of January 14, 2004

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fails to anticipate the pending claims. Accordingly, withdrawal of the anticipation rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'P. Jewik', enclosed within a large, loopy oval shape.

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